

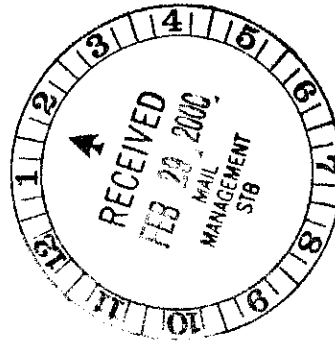
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February 29, 2000

Office of the Secretary
Surface Transportation Board
The Mercury Building
1925 K Street N.W.
Washington, DC 20423



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ATTN: Vernon A. Williams

RE: Hearing on Public Views on Major Rail Consolidations,
STB Ex Parte No. 582

Dear Sir:

Enclosed for filing please find the original and ten (10) copies of the STATEMENT OF CEMEX USA MANAGEMENT, INC., HOUSTON, TEXAS, REGARDING PUBLIC VIEWS ON MAJOR RAIL CONSOLIDATIONS. Also enclosed is a 3.5-inch IBM-compatible floppy diskette with an electronic copy of the Statement saved in WordPerfect 5.1 as well as text format.

Thank you in advance for your consideration of Cemex USA's comments.

Respectfully,

Timi Nickerson Kenealy
Attorney for CEMEX USA, Inc.

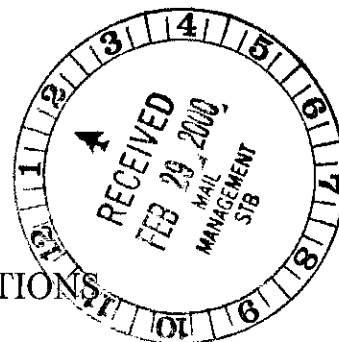
Enclosures

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STATEMENT OF
CEMEX USA MANAGEMENT, INC.
HOUSTON, TEXAS
REGARDING
PUBLIC VIEWS ON MAJOR RAIL CONSOLIDATIONS
STB Ex Parte No. 582
FEBRUARY 29, 2000



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Cemex USA Management, Inc. ("Cemex") is one of the largest producers of cement and aggregate in Texas. Cemex is headquartered in Houston, Texas. Cemex has several cement and aggregate facilities in Texas, including a production plant located at Balcones, near New Braunfels, Texas. Cemex also imports cement from overseas sources through the Port of Houston.

Cemex moves the majority of its cement and aggregate to its customers by rail. Rail is the most efficient and economical method of moving bulk commodities. As a result, Cemex's entire marketing and distribution system is dependent on rail transportation.

Because of its dependency on rail transportation, Cemex is concerned about the move toward more consolidation in the rail industry. Cemex suffered greatly in 1997-98 during the rail crisis caused by the merger of the Union Pacific Rail Road ("Union Pacific") and the Southern Pacific Rail Road. It took well over a year for rail service to return to normal.

With this experience, Cemex finds it difficult to believe that the interests of the American economy, let alone individual shippers, will be well served by any additional rail mergers. Increased rail market share by the major rail carriers means that they will be free to disregard the letter and spirit of the law to the detriment of individual shippers.

History is replete with the examples of the outcomes of monopolistic power on markets. Rail transportation service is no different.

For Cemex, this is not an abstract concern. Cemex currently is suffering from abuse of monopolistic powers at the hands of the Burlington Northern Santa Fe Railway Company ("BNSF"). Cemex's Balcones plant produces in excess of 1,000,000 standard tons ("ST") of cement a year. The overwhelming bulk of that cement is shipped by rail from the Balcones plant to customers in Texas, with approximately 40% destined to Cemex's Ft. Worth facility. That cement is loaded at the Balcones Plant and transported by the Union Pacific to outside of Ft. Worth where it is interchanged to the BNSF. BNSF transports the cement into Ft. Worth. In 1999, BNSF transported approximately 300 cars a month, or 3987 cars, over this track to Cemex's Ft. Worth facility. BNSF received over \$500,000 in revenue for these shipments in that year.

Cemex's Ft. Worth facility is serviced over a BNSF-owned track approximately 1.6 miles (8,600 feet) long. Although Cemex shipments over this track have been and are projected to be substantial, BNSF has conducted only minor maintenance and upgrading on the track since the Burlington Northern merged with the Atchison, Topeka and Santa Fe Railway to form BNSF in 1995. As a result, the track substantially has deteriorated. In 1999, two derailments occurred causing major disruptions to Cemex's operations. After making repairs, the BNSF indicated in September 1999 that it intended to abandon the track unless Cemex purchases and rehabilitates the track to BNSF standards.

The BNSF made this "offer" asserting that the track was a "spur" and could be abandoned at will. In January 2000, the BNSF provided documents to complete the sale but could provide no support for its initial assertion that the track was a "spur."

Consequently, in a letter dated February 4, 2000, Cemex USA sought the guidance of the Surface Transportation Board (“Board”) regarding the status of the track.

On February 14, 2000, the Union Pacific advised Cemex USA that the BNSF had returned Cemex cars already interchanged to BNSF at Ft. Worth because the railcars were reportedly overweight. Cemex USA contacted BNSF and learned that BNSF had decided to limit railcar gross weight to 268,000 pounds per railcar instead of the previous 286,000 pounds. BNSF had embargoed the track as of February 3, 2000, without informing Cemex USA. Cemex USA informed the Board of these developments on February 16, 2000. After negotiations, BNSF finally allowed the approximately 100 railcars over the weight limit to be delivered to Ft. Worth on February 18, 2000.

On February 25, 2000, Cemex petitioned the Board for a Declaratory Order. Cemex asserted in its petition that: the BNSF’s actions constitute an unreasonable practice; the track is a line pursuant to 49 U.S.C. § 10903; the BNSF is required to file an application and provide notice of abandonment pursuant to 49 U.S.C. § 10903(a); and, in order for BNSF to effect a proper abandonment, BNSF must demonstrate that such abandonment meets the criteria set forth in law and regulations. Cemex USA also requested the Board to direct the BNSF to cease its unlawful embargo and resume full service to the track.

Cemex contends that the current embargo of the track was implemented to pressure it to purchase the track. The timing of the embargo raises serious questions regarding the BNSF’s motives, use of its monopolistic power, and undermines the parties’ abilities to negotiate this matter in good faith. With the start of the construction season in Texas hard upon Cemex and demand for its products about to reach a

seasonal upturn, this embargo was meant to intimidate and pressure Cemex into signing an unfavorable purchase agreement.

Embargoes and abandonment are powerful weapons that can be used against the livelihood of shippers. Railroads are compensated for maintenance and rehabilitation of tracks as part of the freight charges, either through service or interchange. BNSF, however, seeks to impose these costs on Cemex. Shippers should not be forced to acquire railroad tracks and their appurtenances by railroads that no longer want the responsibility for maintaining, repairing and upgrading tracks, but at the same time want to continue receiving freight rates. BNSF essentially is attempting to force one of its shippers to acquire track that BNSF has failed to maintain to its own engineering standards since 1995 and before.

It is opined from this situation that any additional rail mergers will make dealing with the major rail carriers much worse, not better. As a consequence, Cemex does not support approval of rail mergers until the current carriers can adequately demonstrate that they are willing and able to serve the shippers they have today.

Thank you.